THE HONOURABLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.17864 of 1998

DATED: 18.04.2007

Between:

Syed Ibrahim and another. .. Petitioners

And

Syed Ali and another. .. Respondents.

THE HONOURABLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.17864 of 1998

ORDER:

This Writ Petition is filed by the petitioners seeking a Writ of Certiorari calling for the records pertaining to the orders, dated 17.03.1998, passed by the District Revenue Officer, Mahabubnagar, the second respondent herein, in Case No.B8/18/88 / B8/4543/97, in changing their names in the revenue records and quash the same as illegal and arbitrary.

2. The case of the petitioners, in brief, is that, they along with their elder brother-respondent No.1 are pattedars and possessors of the land in sy.no.791 situated at Kadthal village, Amangal Mandal, Mahabubnagar district, and cultivating the same as successors to their father. The land originally belonged to one Jagirdar Sri Saad Hassan Khan Bahadur. After the abolition of Jagirs, patta was made in the name of their elder brother-respondent No.1 and their names were recorded as Sikhmidars having equal rights as that of respondent No.1 in the title as well as possession. Later on, they themselves have got divided the land, which was in an extent of 18 acres 4 guntas, and each of them have got 6 acres to their respective shares and the same was recorded in the revenue records. But, at the time of preparation of Khasra pahani in the year 1954-55 under the A.P. (Telangana Area) Record of Rights Regulation, 1358 Fasli (in short referred to as 'the Regulations'), the extent of their land along with the land of the

respondent no.1 was shown as 17 acres 13 guntas made into parts and numbered as 315, 313, 251 and also each of their share was shown as 5 acres 4 guntas. Though respondent No.1 was in the knowledge of the same, he has not taken any steps for its rectification.

The grievance of the petitioners is that respondent No.1 having sold his share of the land in the year 1988, with an intention to harass them and to grab their lands, has filed a petition before respondent No.2 for rectification of revenue records under Section 15(2) of the Regulations and the same was allowed by respondent No.2 by his order dated 21.03.1991 in Case No.B8/18/ROR/88 ordering to delete the names of the petitioners as Shikmidars of their respective shares while retaining the entire area to the khatha of respondent no.1. Questioning the same, the petitioners filed W.P.No.9672 of 1991 seeking suspension of the orders passed by respondent no.2, dated 21.03.1991, but ultimately, the Writ Petition itself was decided without going into the merits directing the respondent no.2 to decide whether as on the date of passing the order under challenge, Section 13 of the Andhra Pradesh Record of Rights in Land and Pattadar Pass Books Act, 1971, (hereinafter in short referred to as 'the Act' for the purpose of convenience) was in force or repealed and remanded the matter to respondent no.2 for afresh disposal. On this direction, the respondent no.2 once again without going into merits simply answered the question that Section 13 of the Act was in operation as on the date of passing of its order dated 21.03.1991 and ultimately, allowed the petition filed by respondent no.1 once again by its order dated 17.03.1998 in Case No.B8/18/88/B8/4543/97. Aggrieved by the same, the petitioners filed the present Writ Petition.

3. A counter affidavit is filed by respondent no.2 stating that the

entries showing the names of the petitioners in the Khasra Pahani of the year 1954-55 are illegal and respondent no.1 alone is the sole owner as per the Jagirdar letter dt.25th Amaerdad, 1356 (F), letters of Tenancy dated 21st Deer 1351 (F) and pahanies of 1950-51, 1951-52 and 1952-53, and that the petitioners could not substantiate their rights over the land and they simply mentioned about compromise deed, but failed to produce the same in the court.

Further, the second respondent contended that it admitted the case under Section 15 (2) of the Regulations and passed the orders in Case No. B8/18/ROR/1988, dated 21.03.1991, and also in Case No.B8/18/88/B8/4543/97, dated 17.03.1998 after issuance of notices, basing on the records available before it and after hearing the arguments of both the counsel.

Further, the second respondent denied that the Khasra pahani is prepared under the Regulations, but it contends that the Khasra pahani 1954-55 was prepared under the A.P. (Telangana Area) Land Census Rules, 1954 and that as soon as respondent no.1 came to know about the wrong entries made in the Khasra pahani of 1954-55, he approached the competent authorities for rectification. It also states that it has jurisdiction to entertain the petition for correction of wrong entries in the Khasra Pahani, provided the cause of action should have arisen prior to 15.08.1978, and there is no limitation prescribed in entertaining the petition by it under the provision of Section 13 of the Act read with Section 8 of A.P. General Clause Act and as per the Government Memo No.1616/N1/81-3, dated 21.11.1981, and thus, sought for dismissal of the petition.

(4) Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue for respondents.

(5) Evidently, the orders of respondent no.2 in Case No.B8/18/88/B8/4543/97, dated 17.03.1998, was passed under Section 4 (3) of the Regulations, against which, an appeal is provided for under Section 15 of the Regulations.

(6) In the light of the said statutory appeal, this Court is of the view that this writ petition is misconceived and the same is liable to be dismissed giving liberty to the petitioners to approach the appellate authority and file an appeal within four weeks from the date of receipt of a copy of this Order.

(7) Having regard to the fact that this Court was pleased to grant interim stay in WPMP.No.21295 of 1998, dated 30.06.1998, the same order shall continue during the pendency of the appeal, if preferred.

(8) With the above observations, the Writ Petition is dismissed. No order as to costs.

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(GOPALA KRISHNA TAMADA,J)

18.04.2007
v v